

57 (11) the construction and maintenance of roadside rest areas adjacent to or near any
58 highway; ~~and]~~

59 (12) the mitigation of impacts from public transportation projects~~[-]; and~~

60 (13) the construction and maintenance of a pathway:

61 (a) for pedestrians, bicyclists, and other nonmotorized transportation; and

62 (b) designed to enhance the safety and efficiency of a nearby highway.

63 Section 3. Section 72-5-103 is amended to read:

64 **72-5-103. Acquisition of rights-of-way and other real property -- Title to property**
65 **acquired.**

66 (1) (a) The department may acquire any real property or interests in real property
67 necessary for temporary, present, or reasonable future state transportation purposes by gift,
68 agreement, exchange, purchase, condemnation, or otherwise.

69 (b) An acquisition by condemnation under Subsection (1)(a) for state transportation
70 purposes includes the acquisition of a pathway described in Subsection 72-5-102(13),
71 notwithstanding the exclusion under Subsection 78B-6-501(3)(e), if:

72 (i) the pathway is in close proximity to a highway ~~§→~~ **and located within the highway's**
72a **right-of-way if practical** ~~←§~~ ;

73 (ii) there is a need to remove pedestrians, bicyclists, and others using a nonmotorized
74 method of transportation from the highway in order to enhance the safety and efficiency of the
75 highway;

76 (iii) because of geological or other constraints, a pathway is the only reasonable
77 alternative to provide a practical and viable means for pedestrians, bicyclists, and others using a
78 nonmotorized method of transportation to use for the purpose of commuting or traveling to
79 destinations they would otherwise reach by using the highway; and

80 (iv) the department makes a determination that the pathway is needed in order to
81 enhance ~~§→~~ **[the] highway** ~~←§~~ safety ~~§→~~ **[and efficiency of the highway]** ~~←§~~ .

82 (2) (a) (i) Title to real property acquired by the department or the counties, cities, and
83 towns by gift, agreement, exchange, purchase, condemnation, or otherwise for highway
84 rights-of-way or other transportation purposes may be in fee simple or any lesser estate or
85 interest.

86 (ii) Title to real property acquired by the department for a public transit project shall be
87 transferred to the public transit district responsible for the project.